IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2819 of 1999

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GSRTC

Versus

USMANGANI BABABHAI MANSURI

Appearance:

MR KM PARIKH for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 05/07/2004

ORAL JUDGEMENT

1. The petitioner Corporation has challenged the judgement and award dated 5.9.1998 passed by the Labour Court, Ahmedabad, in Reference (LCA) No.1092/1997 whereby the Labour Court had directed the Corporation to reinstate the respondent workman with continuity of

service and 20% backwages.

2. The respondent workman was serving as a Conductor with the petitioner Corporation. He was issued a charge-sheet for the alleged misconduct of collecting full fare and not issuing tickets for the full amount. After Departmental Inquiry the services of the petitioner were dismissed by the petitioner Corporation. The petitioner raised an industrial dispute which was numbered as Reference (LCA) No.1092/1997. The Labour Court, after hearing the parties, allowed the Reference by directing reinstatement of the respondent workman on his original post along with 20% backwages. It is this judgement and award which is the subject matter of the present petition.

3. Learned counsel for the petitioner submitted that while passing the award the Labour Court has not considered the past record and past defaults committed the respondent workman. He pointed out that the respondent workman, in his service career from 4.9.1979 to 4.9.1996, has committed more than 28 defaults. He further submitted that looking to the habitual misconducts committed by him he was rightly dismissed from service. According to the learned counsel, looking to the conduct of the respondent workman, he does not deserve any sympathy from the Court. It was contended that looking to the gravity of misconduct, the finding of the Labour Court cannot be sustained and in fact no punishment has been imposed upon the respondent workman who has committed many defaults.

4. Learned counsel for the respondent workman submitted that there are no serious allegations against the respondent workman and the judgement and award of the Labour Court is just and proper and the Labour Court awarded only 20% backwages.

5. After having heard the learned counsel for the respective parties and having perused the record of the case, I find that the Labour Court has taken a too lenient view in the matter. There is no dispute that the respondent workman had committed more than 28 defaults during his tenure. This itself indicates that the respondent workman is a habitual defaulter. In spite of his aforesaid past service he has been continued in service only by losing 80% backwages. No penalty has been imposed upon the workman for his alleged misconduct. Therefore, looking to the overall facts and circumstances of the case, I am of the opinion that ends of justice would be met by imposing a punishment of stoppage of one

increment without future effect.

6. In the result, the petition is partly allowed. The petitioner Corporation shall effect stoppage of one increment in the salary of the respondent workman without future effect. The judgement and award of the Labour Court shall stand modified to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]
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